

or otherwise terminated. Material created by a party for the purpose of an ADR proceeding is to be used solely for that proceeding unless the parties agree otherwise. Parties may request a protective order in an ADR proceeding in the manner provided in 6101.12(h).

(c) *Types of ADR.* ADR is not defined by any single procedure or set of procedures. The Board will consider the use of any technique proposed by the parties which is deemed to be fair, reasonable, and in the best interest of the parties, the Board, and the resolution of contract disputes. The following are examples of available techniques:

(1) *Mediation.* The Board Neutral, as mediator, aids the parties in settling their case. The mediator engages in *ex parte* discussions with the parties and facilitates the transmission of settlement offers. Although not authorized to render a decision in the dispute, the mediator may discuss with the parties, on a confidential basis, the strengths and weaknesses of their positions. No judge who has participated in discussions about the mediation will participate in a Board decision of the case if the ADR is unsuccessful.

(2) *Neutral case evaluation.* The parties agree to present to the Board Neutral information on which the Board Neutral bases a non-binding, oral, advisory opinion. The manner in which the information is presented will vary from case to case depending upon the agreement of the parties. Presentations generally fall between two extremes, ranging from an informal proffer of evidence together with limited argument from the parties to a more formal presentation of oral and documentary evidence and argument from counsel, such as through a mini-trial.

(3) *Binding decision.* One or more Board judges render a decision which, by prior agreement of the parties, is to be binding and non-appealable. As in the non-binding evaluation of a case by a Board Neutral, the manner in which information is presented for a binding decision may vary depending on the circumstances of the particular case.

(4) *Other procedures.* In addition to other ADR techniques, including modifications to those listed in this section, as agreed to by the Board and parties, the parties may use ADR techniques

that do not require direct Board involvement.

(5) *Selective use of standard procedures.* Parties considering the use of ADR are encouraged to adapt for their purposes any provisions in part 6101 which they believe will be useful. This includes but is not limited to provisions concerning record submittals, pretrial discovery procedures, and hearings.

PART 6103—RULES OF PROCEDURE FOR TRANSPORTATION RATE CASES

Sec.

6103.1 Scope [Rule 301].

6103.2 Filing claims [Rule 302].

6103.3 Responses to claims [Rule 303].

6103.4 Reply to OTA and agency responses [Rule 304].

6103.5 Proceedings [Rule 305].

6103.6 Decisions [Rule 306].

6103.7 Reconsideration of Board decision [Rule 307].

6103.8 Payment of successful claims [Rule 308].

AUTHORITY: 31 U.S.C. 3726(g)(1); 41 U.S.C. 601-613. Section 201(o), Pub. L. 104-316, 110 Stat. 3826.

SOURCE: 62 FR 25867, May 12, 1997, unless otherwise noted.

6103.1 Scope [Rule 301].

(a) *Authority.* Section 201(o) of the General Accounting Office Act of 1996, Public Law 104-316, transfers certain functions of the Comptroller General contained in 31 U.S.C. 3726(g)(1) to the Administrator of General Services, who has redelegated those functions to the General Services Administration Board of Contract Appeals.

(b) *Type of claim; review of claim.* These procedures are applicable to the review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The Board will issue the final agency decision on a claim based on the information submitted by the claimant, the General Services Administration Office of Transportation Audits (OTA), and the department or agency (the agency) for which the services were provided. The burden is on the claimant to establish the timeliness of its claim, the liability of the agency, and the claimant's right to payment.